

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

PHILIP L. HOYLE, SP 2012-SP-013 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 3.2 ft. from rear lot line and 5.9 ft. from side lot line and to permit open deck to remain 0.0 ft. from side lot line. Located at 8818 Sweet Gum Pl., Springfield, 22153, on approx. 11,699 sq. ft. of land zoned R-3 (Cluster). Springfield District. Tax Map 88-2 ((7)) 12. Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 13, 2012; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The application meets all the criteria under A through G.
3. The staff report indicates that the deck was actually built prior to the applicant purchasing the home.
4. This was tangential to the original complaint on this property.
5. There are five letters of support which were read completely, including the homeowners on each side of the tree house or each side of the property, and they would be the ones that are most affected.
6. The one letter of opposition is from an individual that is across the street.
7. The applicant has made significant efforts from the standpoint of mitigating any obtrusiveness that the tree house might cause.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

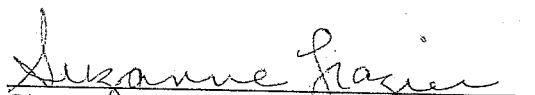
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved only for the location of the accessory structure (tree house) and open deck as shown on the plat prepared by Apex Surveys, dated January 23, 2012, as revised through February 20, 2012, signed by Guy H. Briggs, submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Beard seconded the motion, which carried by a vote of 5-1. Mr. Hammack voted against the motion. Mr. Smith was absent from the meeting.

A Copy Teste:

  
Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals